



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

November 4, 1998

Mr. James R. Schnurr
Assistant City Attorney
Criminal Law & Police Division
1500 Marilla
Dallas, Texas 76201

OR98-2591

Dear Mr. Schnurr:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 119197.

The Dallas Police Department received a request for any information relating to the internal affairs investigation of a Officer Nixon Mixon. You contend that the requested information is excepted from required public disclosure by sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and have reviewed the sample documents that you have submitted.

Section 552.108 of the Government Code provides in part:

(b) An internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution is excepted from the requirements of Section 552.021 if:

(1) release of the internal record or notation would interfere with law enforcement or prosecution;

(2) the internal record or notation relates to law enforcement only in relation to an investigation that did not result in conviction or deferred adjudication; or

* * *

(c) This section does not except from the requirements of Section 552.021 information that is basic information about an arrested person, an arrest, or a crime.

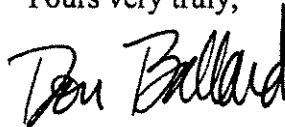
Gov't Code § 552.108. Generally, a governmental body claiming an exception under section 552.108 must reasonably explain, if the information does not supply the explanation on its face, how and why section 552.108 applies. See Gov't Code §§ 552.108(b)(1), .301(b)(1); see also *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You argue that

[t]he requested information includes internal records which reveal police procedures pertaining to drug "sting" operations. The release of this information could jeopardize ongoing and future operations by identifying undercover police personnel as well as drug enforcement procedures and techniques employed by the department. Further, the release of undercover police officers [sic] information related to their undercover street names could jeopardize the safety and well being of these officers. Release of this information could directly hinder the District Attorney's ability to prosecute drug cases.

The requested records appear to concern criminal allegations and a criminal investigation. Based upon your arguments and our review of the submitted documents, we find that, in this case, you may withhold most of the requested records under section 552.108. We have marked other documents which are not excepted by section 552.108. These documents consist of one letter which appears to have already been provided to the requestor and documents publicly filed with a court. See *Star-Telegram, Inc. v. Walker*, 834 S.W.2d 54, 57-58 (Tex. 1992) (documents filed with the court are public documents and must generally be released). Likewise, we do not believe that these documents are excepted from disclosure under section 552.101 by the informer's privilege. *Id.*; Open Records Decision Nos. 515 at 3 (1988) (informer's privilege applies provided that the subject of the information does not already know the informer's identity), 208 at 1-2 (1978). We have marked the information that must be released. The remaining information may be withheld under section 552.108.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink that reads "Don Ballard". The signature is written in a cursive, slightly slanted style.

Don Ballard
Assistant Attorney General
Open Records Division

JDB\nc

Ref: ID# 119197

Enclosure: Marked Documents

cc: Ms. Debra Haywood
4222 Ledbetter
Dallas, Texas
(w/o enclosures)